

## CCRB INVESTIGATIVE RECOMMENDATION

|   |   |                           |  |   |                                 |
|---|---|---------------------------|--|---|---------------------------------|
| Investigator:<br>Robyn Howell                     | Team:<br>Team # 4   | CCRB Case #:<br>200809974 | <input checked="" type="checkbox"/> Force              | <input checked="" type="checkbox"/> Discourt. | <input type="checkbox"/> U.S.   |
|   |   |                           | <input checked="" type="checkbox"/> Abuse              | <input type="checkbox"/> O.L.                 | <input type="checkbox"/> Injury |
| Incident Date(s)<br>Thursday, 07/10/2008 3:00 PM  | Location of Incident:<br>Astoria Boulevard and First Street | Precinct:<br>114          | 18 Mo. SOL<br>1/10/2010                                | EO SOL<br>1/10/2010                           |                                 |
| Date/Time CV Reported<br>Mon, 07/14/2008 12:47 PM | CV Reported At:<br>CCRB                                     | How CV Reported:<br>Phone | Date/Time Received at CCRB<br>Mon, 07/14/2008 12:47 PM |   |                                 |

| Complainant/Victim | Type | Home Address |
|--------------------|------|--------------|
|                    |      |              |
|                    |      |              |

| Witness(es) | Home Address |
|-------------|--------------|
|             |              |
|             |              |
|             |              |

| Subject Officer(s)     | Shield | TaxID  | Command |
|------------------------|--------|--------|---------|
| 1. DT3 Kevin Pecorella | 03245  | 921665 | NARCBQN |
| 2. DT3 Bryan Zuccaro   | 02449  | 931484 | NARCBQN |

| Witness Officer(s)    | Shield No | Tax No | Cmd Name |
|-----------------------|-----------|--------|----------|
| 1. POM Clifton Clarke | 28191     | 916961 | NARCBQN  |
| 2. LT Christop Thomas | 00000     | 896745 | NARCBQN  |

| Officer(s)            | Allegation  | Investigator Recommendation |
|-----------------------|---|-----------------------------|
| A.DT3 Bryan Zuccaro   | Discourtesy: Det. Bryan Zuccaro spoke rudely to § 87(2)(b)                        |                             |
| B.DT3 Bryan Zuccaro   | Abuse: Det. Bryan Zuccaro searched § 87(2)(b)                                     |                             |
| C.DT3 Bryan Zuccaro   | Force: Det. Bryan Zuccaro used physical force against § 87(2)(b)                  |                             |
| D.DT3 Kevin Pecorella | Abuse: Det. Kevin Pecorella searched the car in which § 87(2)(b) was an occupant. |                             |
| E.DT3 Bryan Zuccaro   | Abuse: Det. Bryan Zuccaro searched the car in which § 87(2)(b) was an occupant.   |                             |
| F.DT3 Bryan Zuccaro   | Force: Det. Bryan Zuccaro struck § 87(2)(b) with a radio.                         |                             |
| G.DT3 Bryan Zuccaro   | Discourtesy: Det. Bryan Zuccaro spoke rudely to § 87(2)(b)                        |                             |
| H.DT3 Kevin Pecorella | Force: Det. Kevin Pecorella used physical force against § 87(2)(b)                |                             |
| I.DT3 Kevin Pecorella | Discourtesy: Det. Kevin Pecorella spoke rudely to § 87(2)(b)                      |                             |

### Synopsis

§ 87(2)(b) filed a complaint with the CCRB against the NYPD on July 14, 2008. He filed the same complaint with IAB's command center on July 16, 2008. § 87(2)(b) reported that on July 10, 2008, at approximately 3:00PM in the vicinity of 1<sup>st</sup> Street and Astoria Blvd. in Queens, Det. Kevin Pecorella and Det. Bryan Zuccaro from Narcotics Borough Queens, stopped his vehicle. § 87(2)(b) had three other passengers with him in his vehicle. They were identified through this investigation as § 87(2)(b), § 87(2)(b) and § 87(2)(b)'s § 87(2)(b) old child. § 87(2)(b) alleged that Det. Pecorella approached his driver's side and removed him from the vehicle. Det. Zuccaro allegedly approached the passenger side of his vehicle and told § 87(2)(b) to "get out of the fucking car", "not to "fucking move", and to show him his "fucking" hands (**Allegation A**). § 87(2)(b) also alleged that Det. Zuccaro searched his pants (**Allegation B**), grabbed him by the collar, threw him to the ground then allegedly removed § 87(2)(b)'s sneakers and threw them at his chest (**Allegation C**). Det. Pecorella and Det. Zuccaro searched the front and back seats and glove compartment of § 87(2)(b)'s vehicle (**Allegations D and E**). When § 87(2)(b) asked why § 87(2)(b) was arrested, Det. Zuccaro allegedly told him the get the "fuck" out of there and to mind his "fucking" business because the neighborhood was his "fucking" community and he does what the "fuck" he wants (**combined with discourtesy Allegation A**). § 87(2)(b) alleged that while he was in route to the 114<sup>th</sup> Precinct, Det. Zuccaro hit him repeatedly with his radio on his right knee causing him to sustain a laceration (**Allegation F**) and allegedly referred to him as a stupid "motherfucker." (**Allegation G**). Det. Pecorella then allegedly threw him against the interior panel of the van and then dragged him across a seat in the back of the prisoner van (**Allegation H**). When they arrived to the 114<sup>th</sup> Precinct, § 87(2)(b) alleged that Det. Pecorella referred to him as an "asshole" to the other prisoners that were in the van with him (**Allegation I**).

IAB conducted an investigation in regards to money that § 87(2)(b) alleged was taken from him and not returned to him, and his disputed arrest.

§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)

### Summary of Complaint

§ 87(2)(b) is a black male, weighs 160 pounds, is 5'8", and has black hair and brown eyes. Sgt. Wilbert Crawley from group 41 contacted § 87(2)(b) on July 24, 2008 and he reiterated his complaint. He provided a phone statement to the CCRB on July 29, 2008 (Encl.8). He was interviewed at the CCRB on July 31, 2009 (Encl.9A-E). He was interviewed by Sgt. Christopher Daly from IAB's group 41 on January 14, 2009. § 87(2)(g) On July 10, 2008, § 87(2)(b) was driving his Silver 2002 Infiniti with his friend § 87(2)(b) and his § 87(2)(b) old son in the back of his car to pick up § 87(2)(b) from Astoria Houses. As § 87(2)(b) was leaving from picking up § 87(2)(b) a gray commercial van from the opposite side of the street stopped directly in front of him on Astoria Blvd. and First Street. Two white police officers got out of the vehicle. PO1, heavy set approximately 5'10" or 5'11", with salt and pepper hair and beard, appeared to be in his mid-forties and wore a blue football jersey approached his driver's side. PO1 was identified through this investigation as Det. Kevin Pecorella. PO2, described as approximately 5'8" or 5'9", appeared to be in his forties, short haircut, clean shaven with a button down shirt and blue jeans approached the passenger side of the vehicle and as he was doing so, he signaled for § 87(2)(b) to turn off the engine. He was identified through this investigation as Det. Bryan Zuccaro. Det. Zuccaro asked everyone in the car if they would mind getting out of the vehicle so that they could search it and § 87(2)(b) told him that he did mind and asked him why he wanted to search the vehicle. Det. Pecorella opened the car door on § 87(2)(b)'s side and grabbed § 87(2)(b)'s left arm and said "Man we don't have to go through this." "Get the hell out of the car." "When we say do something, you do it." He then dragged § 87(2)(b) out of the car by his left arm and placed him against the car. At that time, a gray SUV, pulled up and a black officer, PO3, who

appeared to be in his late thirties or early forties, approximately 5'9" with a stocky build, turned § 87(2)(b) around and placed handcuffs on him. He was identified through this investigation as PO Clifton Clarke. Det. Pecorella then placed § 87(2)(b) in the SUV and PO Clarke got in the driver's side.

Det. Pecorella went back to § 87(2)(b)'s car and took § 87(2)(b) out of the car. He put him in handcuffs and took off his shoes and socks. § 87(2)(b) got out of the car with his son. Det. Pecorella and Det. Zuccaro began searching § 87(2)(b)'s pants pockets. They then searched § 87(2)(b)'s car in the front and back seats and glove compartment. PO Clarke told § 87(2)(b) that he needed to be mindful of who he let into his car. § 87(2)(b) asked him what did he mean by that and PO Clarke replied "I know you're not going to sit here and tell me that you didn't know that the passenger in the front seat is a crack head." § 87(2)(b) replied "Whether I know that or not, that does not give you a reason to pull me out of my car, search my vehicle, and arrest me." PO Clarke repeated for § 87(2)(b) to be mindful of who he puts in his car. Det. Pecorella then removed § 87(2)(b) from the SUV and brought him to the back of the commercial van. While Det. Pecorella held § 87(2)(b) Det. Zuccaro searched his front and back pockets and removed his keys, \$660.00, and identification. Det. Zuccaro put the keys and his ID in a blank white envelope and pushed § 87(2)(b) inside of the prisoner van. When he asked what he was being arrested for, one of the officer's said that they were pulling him over for a traffic violation but since he wanted to ask so many questions they were arresting him for disorderly conduct.

PO Clarke left in the SUV. Det. Pecorella and Det. Zuccaro drove around for a few hours and § 87(2)(b) asked them what were they doing, and if they were going to take him to the precinct. They told him not to worry and § 87(2)(b) told them that they were not to be driving around, and asked them what they were trying to do. Det. Pecorella slammed on the brakes and got out of the car. Det. Zuccaro also got out of the car, went to the back of the van, and grabbed § 87(2)(b) and began pulling on him. Det. Zuccaro hit § 87(2)(b) on his right leg with what appeared to be a radio and said "stupid motherfucker." § 87(2)(b) received a laceration and bled on his right leg. Det. Pecorella grabbed § 87(2)(b) and threw him into the interior wall of the van on the left side where he hit the side of his head, and then dragged him across a grip on the seat in the van back against the door of the van. § 87(2)(b) sustained cuts and scratches to his left elbow. They told him that he had a big mouth and everything could have been avoided. They continued to drive around and picked up two people.

At the 114<sup>th</sup> Precinct, § 87(2)(b) told the officers that he wanted to go to the hospital because his neck was bothering him and his leg was bleeding. Either Det. Pecorella or Det. Zuccaro told him that he was not going to the hospital and that he was going to Central Booking. § 87(2)(b) told the officer that they injured him and he was entitled to go to the hospital. Another officer in the precinct asked what happened and the officers said that he got injured in the van and they did not know what happened. They then put him in a cell without handcuffs, then removed him from the cell, placed handcuffs on him, and then placed him back inside of the cell. After a few minutes, they told him that he was going to Central Booking and § 87(2)(b) told them that he was going to the hospital. Det. Pecorella and Det. Zuccaro grabbed him out of the cell. Det. Pecorella, Det. Zuccaro, PO Clarke, and a black female officer carried § 87(2)(b) out of the precinct and threw him on the floor inside of the van. Two other prisoners were sitting on the bench inside of the van smoking cigarettes. One of the officers said to the prisoners "See we do this for you because you're not being an asshole like § 87(2)(b). § 87(2)(b) is an asshole." A few minutes later, another officer told Det. Pecorella and Det. Zuccaro that they had to take him to the hospital. They then removed him from the commercial van and placed him in a green or dark blue Dodge minivan until the ambulance arrived. Either Det. Pecorella or Det. Zuccaro told him that he had to agree to tell EMS that he hurt himself inside of the prisoner van without their involvement in order for him to go to the hospital. In his phone statement he said that one of them told him he had to say that he injured himself as a result of the van stopping short. § 87(2)(b) was taken to § 87(2)(b). A doctor examined him. His leg was wrapped up and he was given antibiotics and pain killers and told to go back to the hospital if he continued to experience pain. Det. Pecorella and Det. Zuccaro then transported § 87(2)(b) to Central Booking.

§ 87(2)(b)  
§ 87(2)(b) is a § 87(2)(b) old Hispanic male, weighs 160 pounds, is 5'7", and has black hair and blue eyes. § 87(2)(b) was interviewed at § 87(2)(b) at Rikers Island on December 15,

2008 (Encl). He explained that on July 10, 2008 at approximately 3PM at Astoria Blvd. and First Street, he was waiting § 87(2)(b) to pick him up. He saw a gray van double parked on the street while he was waiting. § 87(2)(b) was in the driver's seat, § 87(2)(b) sat in the passenger seat and § 87(2)(b) and his eighteen month old son sat in the back seat. § 87(2)(b) did not recall where they were headed. As § 87(2)(b) was driving from § 87(2)(b)'s building, two unmarked cars, a gray two-door van possibly a 2000 Ford with two officers and the same gray van that § 87(2)(b) had noticed double parked directly in front of § 87(2)(b) stopped his car. PO1, the driver of the gray van, was described as short perhaps 5'4", slim build, approximately 150-160 pounds, with a light beard, very short hair, and was in plainclothes. He also appeared to be anywhere from 30-40 years of age. He was identified through this investigation as Det. Pecorella. PO2, was described as chubby, approximately 180 pounds, "stubby" beard, appeared to be in his thirties or early forties, approximately 5'8" or 5'9" and was also in plainclothes. He was identified through this investigation as Det. Zuccaro. A third officer, identified through this investigation as PO Clarke, described as a black male, fat, approximately 240 pounds, 5'7", in plainclothes, shaved face, with uncombed hair, and appeared to be either 45 or 50 years of age, was in a gray perhaps Liberty Jeep. Det. Pecorella and Det. Zuccaro exited the vehicle at the same time. Det. Pecorella asked § 87(2)(b) to step out of the car and § 87(2)(b) asked why. Det. Pecorella told § 87(2)(b) to shut the "fuck up." He removed the key from the ignition and then dragged § 87(2)(b) out of the car.

Det. Zuccaro told § 87(2)(b) to get out of the "fucking" car, don't "fucking" move, let me see your "fucking" hands. § 87(2)(b) remained quiet. Det. Zuccaro opened the car door, grabbed him by the collar and the back of his hair, and dragged him out of the car and handcuffed him. Det. Zuccaro then asked § 87(2)(b) what he was doing in the neighborhood and § 87(2)(b) replied that he lived there. Det. Zuccaro searched § 87(2)(b)'s pants pockets and found his ID from one of his front pockets which confirmed that he lived at Astoria Blvd. and First Street. Det. Zuccaro grabbed § 87(2)(b)'s shoulders, turned him around, and threw him to the ground. § 87(2)(b) fell on his hands. He scraped one of his elbows. He asked Det. Zuccaro what was he doing and Det. Zuccaro told him to "shut the fuck up." Det. Zuccaro removed § 87(2)(b)'s sneakers and searched them. Nothing was found in § 87(2)(b)'s sneakers. Det. Zuccaro threw the sneakers at him, hitting him in the chest area.

Det. Pecorella threw § 87(2)(b) against the driver's side of the car and he and Det. Zuccaro searched him. They searched all of his pockets. They told him not to "fucking" move. Det. Pecorella or Det. Zuccaro then handcuffed § 87(2)(b). Det. Zuccaro then searched the car including the glove compartment, console, and underneath the seats, while Det. Pecorella stayed with § 87(2)(b). When Det. Zuccaro searched the car that was when he realized that § 87(2)(b) and his son were sitting in the back seat. Det. Pecorella mentioned something about endangering § 87(2)(b)'s son to § 87(2)(b) because there was no car seat.

Det. Zuccaro and PO Clarke pushed § 87(2)(b) by his collar area into the back of PO Clarke's jeep. At some point, § 87(2)(b) asked Det. Pecorella and Det. Zuccaro for their badge numbers and they did not provide it. Det. Zuccaro removed § 87(2)(b)'s handcuffs and told him and § 87(2)(b) to get the "fuck" out of there otherwise they would be next. § 87(2)(b) asked Det. Zuccaro why § 87(2)(b) was arrested and he told him to "shut the fuck up" and mind his business. § 87(2)(b) told him that he lived in the neighborhood for § 87(2)(b) years and that that was his community and Det. Zuccaro replied "this is my fucking community and I do what the fuck I want."

## **Results of Investigation**

### **Civilian Statements**

§ 87(2)(b) provided a phone statement on February 12, 2009 in regards to this complaint (Encl.29A-B). § 87(2)(b) and his friend § 87(2)(b) got arrested and were picked up by two officers. PO1, was described as a white male, 5'11", blue eyes, he had a blondish color "military haircut or low fade" and appeared to be in his late thirties. He was identified through this investigation as Det. Pecorella. PO2, the

driver of the prisoner van, identified through this investigation as PO Clarke, was described as a black male, 5'7" or 5'8", stocky, was in plainclothes, had a Caesar haircut, and appeared to be 38 or 39 years old. When he and § 87(2)(b) entered the van, § 87(2)(b) was already inside of the van. Initially he stated that § 87(2)(b) sat in front of him and § 87(2)(b) on a wooden makeshift bench on the left side inside of the van. There was a bench on the right side of the van also. There were no side windows towards the rear of the van. PO Clarke drove the van very fast and they kept slipping and falling all over the van. At some point, § 87(2)(b) and § 87(2)(b) ended up on the right side of the van.

§ 87(2)(b) complained that the officers beat him up and injured his knee and neck and that he was going to file a complaint against them. He repeatedly complained that the officers beat him up. § 87(2)(b) did not witness any force used against § 87(2)(b). He did notice that § 87(2)(b) had a cut on either § 87(2)(b)'s knee or his arm and that § 87(2)(b) showed the cut to him and he was bleeding. § 87(2)(b) told the officers several times that he wanted to go to the hospital or requested an ambulance to come. When they arrived at the 114<sup>th</sup> Precinct, § 87(2)(b) still asked to go to a hospital because his leg and neck were hurting. The officers told him that he had to get out of the van. § 87(2)(b) refused to leave the van and kept repeating that he wanted to see a doctor right away. The officers kept telling him to get out of the van and § 87(2)(b) refused to do so.

One of the officers grabbed his arms and the other officer grabbed his ankles and carried him into the precinct. Before § 87(2)(b) entered the precinct, there was a pack of Newport Cigarettes on the ground. One of the officers asked him if he wanted to smoke and put the cigarette in his mouth and lit it for him. The officer also did the same thing for § 87(2)(b). Det. Pecorella said to § 87(2)(b) "This is what you get when you're not being an asshole, we work with you, we're cool with the people who are cool with us." "This guy is being an asshole." "You guys are being cool, so we can work with you." "If you ask for a cigarette, we're going to give you a cigarette."

They placed § 87(2)(b) in a holding cell with § 87(2)(b) and § 87(2)(b). § 87(2)(b) said "Look what these motherfuckers did to me?" He continued to say that he was going to make a complaint against the officers. § 87(2)(b) said "These motherfuckers think they could do shit and get away with it." § 87(2)(b) said that he was going to say to file a civil suit. At some point, the officers tried to convince § 87(2)(b) not to go to the hospital by telling him that he still was going to go to jail.

§ 87(2)(b) did not travel with § 87(2)(b) and § 87(2)(b) to Central Booking.

#### **Contact attempts to other witnesses**

On November 13, 2008, § 87(2)(b)'s address was searched in Coles Directory and it was not listed. A Lexis Nexis Search was also conducted on that same date and there was a record of a § 87(2)(b) with a contact number. On the same date, § 87(2)(b) was contacted in regards to obtaining contact information for § 87(2)(b) and he stated that he did not have contact information for § 87(2)(b) but would give him the undersigned investigator's contact information. Contact attempts by phone to § 87(2)(b) via the number obtained from the Lexis Nexis results, were conducted on November 21, 2008, December 4, 2008, January 6, 12, of 2009. There was no voicemail system available therefore no messages were left for § 87(2)(b) to contact the CCRB. On January 6, 2009, a contact letter was sent to the address obtained from the Lexis Nexis results. § 87(2)(b) has not made any contact with the CCRB.

On January 26, 2009, a contact attempt by phone was made to § 87(2)(b) whose telephone number was retrieved from the website 411.com. The voicemail indicated that the number belonged to § 87(2)(b) therefore a message was not left. On that same date, contact letter was sent to § 87(2)(b). On February 4, 2009, another contact attempt by phone was made to § 87(2)(b) and the phone rang out. On that same date, a Lexis Nexis search was conducted for another phone number for § 87(2)(b). On February 5, and 11, of 2009, phone calls were made to § 87(2)(b) via the telephone number retrieved from the Lexis Nexis results. No voicemail system was available to leave a message. A final please call letter was also sent to § 87(2)(b) on February 5, 2009. A final phone call to § 87(2)(b) was made on March 11, 2009. To date, § 87(2)(b) has not contacted the CCRB in regards to this complaint.

#### **Officer Identification**

According to § 87(2)(b)'s arrest report, PO Clarke was his arresting officer. According to the stop and frisk reports for § 87(2)(b) and § 87(2)(b) Det. Zuccaro was listed as the reporter on the reports. The tactical plan indicated that Lt. Thomas was assigned to the same vehicle as PO Clarke. Det. Pecorella and Det. Zuccaro were assigned to the prisoner van on the date of incident.

### Officers' Statements

#### Detective Kevin Pecorella

Det. Pecorella is a white male, weighs 265 pounds, is 5'7", and has brown hair and blue eyes (Encl.15E). He was interviewed on March 6, 2009 by Sgt. Christopher Daly from IAB's Group 41 in regards to the missing property (Encl.14). During that interview he was asked if he or any member of his field team hit § 87(2)(b) with a radio, used excessive force, abusive language, or denied him medical and he said "no." § 87(2)(g) (Encl.15A-D).

Det. Pecorella filled out the criminal disposition sheet on July 10, 2008 and explained his statements during his CCRB interview. § 87(2)(a) 160.50

On July 7, 2008, Det. Pecorella worked with Det. Zuccaro and was assigned to the prisoner van. The prisoner van was described as a gray full size van. He worked from 11:00AM to 7:27PM. Det. Zuccaro was the driver of the van and Det. Pecorella was in the passenger seat. His memo book entries regarding this incident are as follows: *1530, one under by PO Clarke at 1<sup>st</sup> Street and Astoria Blvd. § 87(2)(b) one prisoner en route to hospital with EMS. § 87(2)(b) arrived at hospital, 2130 transport to Central Booking.*

Det. Pecorella explained that he received a radio run from Lt. Thomas and PO Clarke to stop a vehicle because the driver, § 87(2)(b) was observed talking to another individual which may have been a possible drug transaction. § 87(2)(b) was also smoking a marijuana cigarette. Prior to receiving the call, he was parked at First Street while Lt. Thomas and PO Clarke conducted observations. He and Det. Zuccaro saw § 87(2)(b)'s vehicle and stopped it head on. Det. Pecorella exited the vehicle and approached § 87(2)(b) who had his window rolled down. Det. Zuccaro approached the passenger side of the vehicle. There was an adult male in the passenger seat and an adult male in the backseat with a § 87(2)(b) month old child. Det. Pecorella was shown a photograph of § 87(2)(b) and he identified him as the passenger that was in the front seat. He asked § 87(2)(b) to turn the engine off. § 87(2)(b)'s demeanor was arrogant and angry and he asked why he was being stopped and had to shut off his vehicle. Det. Pecorella was not certain if § 87(2)(b) did in fact shut the vehicle off or if he did so himself. Det. Pecorella asked § 87(2)(b) numerous times to exit the vehicle and he refused to do so. § 87(2)(b) said that he was not exiting the vehicle. Det. Pecorella did not tell him to get the hell out of the car. § 87(2)(b) continued to ask why he was stopped.

Det. Pecorella opened the car door and smelled a strong odor of marijuana. The odor came from within the vehicle. § 87(2)(b) swung his hands wildly in front of himself therefore Det. Pecorella placed his hands on § 87(2)(b)'s hands using minimal force in an attempt to put them behind his back. § 87(2)(b) pushed Det. Pecorella in his chest. Det. Pecorella grabbed § 87(2)(b)'s hands to which he was still moving violently, placed them behind of his back to gain control of him, and then placed his body against his car to prevent him from moving. He was immediately handcuffed. Det. Pecorella did not touch any other part of § 87(2)(b)'s body besides his hands to remove him from the car. Det. Zuccaro asked the other individuals to step out of the vehicle and they were compliant. Det. Zuccaro searched inside of § 87(2)(b)'s car including the glove compartment and center console. Det. Pecorella did not search the vehicle. Det. Pecorella did not hear Det. Zuccaro use profanity when he asked § 87(2)(b) to step out of the vehicle. No force was used to remove § 87(2)(b) from the vehicle. Det. Pecorella never saw

§ 87(2)(b) on the ground and he was not told to shut the “fuck up.” No profanity was used when he and Det. Zuccaro interacted with § 87(2)(b). Det. Pecorella frisked § 87(2)(b) from his waist down at the scene. PO Clarke may have searched § 87(2)(b) at the scene since he was the arresting officer. He was unsure if the other passenger identified through this investigation as § 87(2)(b) or § 87(2)(b) was frisked or searched.

Lt. Thomas and PO Clarke arrived at the scene shortly thereafter. No other officers were in the vehicle with them. Lt. Thomas verified the arrest. Det. Pecorella saw the marijuana cigarette in the rear of § 87(2)(b)'s vehicle, he did not remember exactly where. PO Clarke recovered it.

After § 87(2)(b) was handcuffed, he was no longer aggressive. Det. Pecorella did not believe that § 87(2)(b) was asked to remove any of this clothing or shoes. Det. Pecorella never saw an officer throw § 87(2)(b)'s sneakers at him. Det. Pecorella placed § 87(2)(b) inside of the prisoner van. He transported § 87(2)(b) to the stationhouse. Det. Pecorella was still the passenger in the prisoner van. They did not immediately go to the stationhouse as they went to other locations and picked up prisoners. Two other people were placed in the prisoner van with § 87(2)(b). Det. Pecorella did not remember anything that § 87(2)(b) may have said during the ride. At no point did the prisoner van stop and Det. Pecorella and Det. Zuccaro exit the van while in route to the stationhouse after they picked up the two additional prisoners. § 87(2)(b) was not hit with a radio on his right knee. Det. Pecorella did not recall where the prisoners sat inside of the van. At no point was § 87(2)(b) dragged from where he sat in the prisoner to the other side of the van causing him to hit his head on the interior of the panel inside of the van. Once they arrived at the stationhouse he did not recall who removed § 87(2)(b) from the prisoner van but stated that usually it is a joint effort between him and Det. Zuccaro.

Lt. Thomas and PO Clarke met them at the stationhouse. The other prisoners were not offered cigarettes at the stationhouse, and neither he nor Det. Zuccaro called § 87(2)(b) an “asshole.” At the stationhouse, Det. Pecorella and Det. Zuccaro placed § 87(2)(b) inside of a holding cell. Det. Pecorella believed that Det. Zuccaro attempted to finger print him and § 87(2)(b) stated that he was not going to be fingerprinted. Det. Pecorella and Det. Zuccaro removed § 87(2)(b) from the holding cell and when he walked, he went limp and fell to the ground several times. He did not recall exactly how § 87(2)(b) fell to the ground. Det. Pecorella and Det. Zuccaro assisted him off of the ground by holding his arms each time. § 87(2)(b) complained that he wanted to go to the hospital once he was at the stationhouse but did not say why. He did not ask to go to the hospital before that. The ambulance was called and § 87(2)(b) was transported to the hospital. While § 87(2)(b) was in the ambulance, he had on a neck brace. Det. Pecorella did not see any visible injuries on § 87(2)(b) and did not see any blood.

Det. Pecorella was told that according to § 87(2)(b)'s medical results that he sustained neck trauma and a laceration to his right leg. Det. Pecorella said that § 87(2)(b) perhaps became injured after falling to the ground but was not certain how he sustained the injuries.

### **Detective Bryan Zuccaro**

Det. Zuccaro is a white male, 5'7", weighs 185 pounds, and has shaved hair and hazel eyes (Encl.18D). He was interviewed on March 6, 2009 by Sgt. Christopher Daly from IAB's Group 41 in regards to the missing property (Encl.17). During that interview he was asked if he or any member of his field team hit § 87(2)(b) with a radio, used excessive force, abusive language, or denied him medical and he said “no.” § 87(2)(g) Det. Zuccaro was interviewed at the CCRB on July 28, 2009 (Encl.18A-C).

On July 7, 2008, Det. Zuccaro worked with Det. Pecorella. He worked the hours of 10:27AM to 7:00PM. He was assigned to the prisoner van. The prisoner was silver/gray in color with a cage in the back where the prisoners are housed. His memo entries regarding this incident are as follows: 1530, one under First Street and Astoria Blvd. 98 Ravenswood.

Det. Zuccaro filled out stop and frisk reports for § 87(2)(b) and § 87(2)(b). He wrote that § 87(2)(b) was frisked, and § 87(2)(b) wasn't, and that they were suspected of criminal sale of a controlled substance. § 87(2)(b) was handcuffed, and Det. Zuccaro had prior knowledge of his

criminal behavior. At the time of the interview, Det. Zuccaro did not recall creating the stop and frisk report for § 87(2)(b) and when asked about the report, he only recalled interacting with § 87(2)(b) for a brief moment.

Det. Zuccaro received a radio transmission of a male smoking marijuana and a description of the vehicle from PO Clarke. He did not remember the description of the vehicle. Prior to receiving the call, Det. Zuccaro was stationed in the vicinity of Astoria Houses. The “bubble light” inside of the prisoner van was used to pull § 87(2)(b) over and he complied. No prisoners were in the van at that time. Det. Pecorella approached the driver’s side and asked the driver, identified through this investigation as § 87(2)(b) to step out of the vehicle and Det. Zuccaro approached the passenger side and asked the passenger, identified through this investigation as § 87(2)(b) to step out of the vehicle. He did not use any profanity when he instructed § 87(2)(b) to do so. Det. Zuccaro smelled marijuana from inside of § 87(2)(b)s vehicle. There was also a passenger in the backseat of the § 87(2)(b)s vehicle, identified through this investigation as § 87(2)(b).

§ 87(2)(b) did not comply with Det. Pecorella’s instructions and they began to argue. § 87(2)(b) used profanity. Det. Pecorella opened the driver’s side door and asked § 87(2)(b) numerous times to step out of the vehicle and he continued to refuse to do so. § 87(2)(b) eventually exited the car by himself and used two hands to push Det. Pecorella in the chest. Det. Pecorella grabbed one of § 87(2)(b)s arms, turned him around, and pushed him against the vehicle in order to restrain him. At that time, Det. Zuccaro went over to where they stood and Det. Pecorella was able to handcuff § 87(2)(b). The person in the back seat did not exit the vehicle. When Det. Zuccaro went back around to the passenger side, § 87(2)(b) was sitting on the sidewalk. Det. Zuccaro did not throw or see any officer throw § 87(2)(b) to the ground.

PO Clarke and Lt. Thomas arrived at the scene. He stated that an officer recovered marijuana from the vehicle but he did not remember who that officer was. He did not know where the marijuana was recovered. He did not have further interaction with § 87(2)(b). He did not observe an officer frisk or search § 87(2)(b). Det. Zuccaro did not know who searched § 87(2)(b). Det. Zuccaro did not nor did he hear any other officer present tell any of the other occupants of § 87(2)(b)s vehicle that if they did not get the “fuck” out of the way, they would be arrested. He also did not nor did he hear any other officer tell any of the passengers to shut the “fuck” up. He did not and also did not observe an officer throw sneakers at any of the passengers. Det. Zuccaro did not have any conversation with any of the passengers about the neighborhood, nor did he hear any other officer present have such conversation. He did not tell any of the passengers that the incident location was his “fucking” community and he could do what the “fuck” he wanted. He also did not hear any other officer say that.

At some point at the incident location, § 87(2)(b) exited the vehicle. Det. Zuccaro did not know if he was instructed to do so by another officer but stated that he did not instruct him to do so.

Det. Zuccaro and Det. Pecorella placed § 87(2)(b) inside of the prisoner van. § 87(2)(b) did not resist going into the prisoner van. They then immediately left the incident location. Det. Zuccaro picked up two additional prisoners before arriving at the 114<sup>th</sup> Precinct. While in route to the stationhouse, Det. Zuccaro did not have to stop the van to interact with § 87(2)(b). Det. Zuccaro and Det. Pecorella did not drag § 87(2)(b) to the opposite side from where he sat in the prisoner van causing him to hit his head. He and Det. Pecorella also did not hit him with their radios on his right knee causing him to sustain a laceration. § 87(2)(b) was not thrown against the interior panel inside of the van. He also was not told to shut the “fuck up.” While they were in the prisoner van, § 87(2)(b) did not complain of any injuries and Det. Zuccaro did not see any injuries on § 87(2)(b). § 87(2)(b) did not request to go to the hospital. Approximately an hour and twenty minutes later, § 87(2)(b) arrived at the stationhouse.

Det. Zuccaro and Det. Pecorella brought § 87(2)(b) out of the prisoner van. § 87(2)(b) verbally resisted but not physically. Neither he nor Det. Pecorella referred to § 87(2)(b) as an “asshole.” § 87(2)(b) was searched in front of the desk and then in cell in the back of the stationhouse before he was placed in a holding cell, which was conducted by either Det. Zuccaro or Det. Pecorella. His belt and shoe laces were also removed. As Det. Zuccaro escorted § 87(2)(b) to the prisoner van to take him to Central Booking, § 87(2)(b) stated that he was not going and told Det. Zuccaro to go fuck himself and threw



himself face forward to the ground. Det. Zuccaro asked him if he was going to get up and § 87(2)(b) told him to fuck himself again, and then made racial slurs and derogatory comments about Det. Zuccaro's race. Det. Zuccaro did not see any injuries on § 87(2)(b) at that point. Lt. Thomas called for an ambulance to go to the stationhouse so that § 87(2)(b) could get evaluated. Det. Zuccaro and Det. Pecorella went with § 87(2)(b) to the hospital and he was seen by a doctor. Det. Zuccaro stated that the doctor said that § 87(2)(b) faked his injuries. Det. Zuccaro was told that § 87(2)(b)'s medical records indicated that he had a laceration to his right knee and he did not know how that occurred. After § 87(2)(b) was treated, he was immediately taken to Central Booking. § 87(2)(b) never requested medical assistance.

#### **Lt. Christopher Thomas**

Lt. Thomas is a white male, 5'4", weighs 205 pounds, and has black hair and brown eyes (Encl.21D). He was interviewed on March 6, 2009 by Sgt. Christopher Daly from IAB's Group 41 in regards to the missing property (Encl.20). During that interview he was asked if he or any member of his field team hit § 87(2)(b) with a radio, used excessive force, abusive language, or denied him medical and he said "no." § 87(2)(g) Lt. Thomas was interviewed at the CCRB on August 11, 2009 (Encl.21A-C).

On July 10, 2008, Lt. Thomas was the patrol supervisor. He worked the hours of 5:25AM to 2:00PM. He worked with a field team that was conducting buy and bust operations within the 114<sup>th</sup> Precinct. He was assigned a gray Commando jeep #7317. The entries in his memo book regarding this incident are as follows: *1530, one under at the corner of 1<sup>st</sup> Street and Astoria Blvd.*

Lt. Thomas conducted buy and bust operation at Astoria Houses. He entered a viper room in Astoria Houses that had video cameras which displayed the incident location. None of his team members were in the room with him. PO Clarke was stationed inside of the jeep outside of Astoria Houses. The field team was in the immediate vicinity. He spoke to officers in the room about narcotics activity. Lt. Thomas observed a white male by himself standing near one of the buildings on 1<sup>st</sup> Street and Astoria Blvd. The male made several quick phone calls on a cell phone. He was observed for several minutes. Shortly thereafter, a car pulled up and he saw the driver of the vehicle, identified as § 87(2)(b) hand the male, identified as § 87(2)(b) a small object while he was outside of the car. He could not tell from the camera exactly what was exchanged. He could not recall shape or color of what was exchanged. Nothing else was exchanged after the initial transaction. He did not see where the object was placed after the transaction. § 87(2)(b) entered the car and they drove away. Lt. Thomas radioed the field team to stop the car. He also radioed PO Clarke and told him to respond to the incident location. Lt. Thomas did not know which officers stopped the vehicle but stated that when he walked to the scene, Det. Pecorella and Det. Zuccaro were already there.

Upon arriving at the scene, § 87(2)(b) and § 87(2)(b) were already out of the vehicle. Lt. Thomas was unsure if the passenger in the back seat was out of the car and stated that if he did get out, he did so on his own because he was not directed to get out of the car. § 87(2)(b) was very arrogant. He threatened the other officers, and made obnoxious demands. Lt. Thomas did not recall any of the threats or demands that § 87(2)(b) made. Lt. Thomas believed that § 87(2)(b) was already in handcuffs when he arrived. Lt. Thomas did not recall which officer primarily interacted with § 87(2)(b) or § 87(2)(b). § 87(2)(b) stood with his hands on top of the hood of § 87(2)(b)'s car.

Lt. Thomas observed § 87(2)(b) being searched before he was placed in the prisoner van but did not recall which officer conducted the search. He did not recall if § 87(2)(b) was searched. He was shown a copy of the stop and frisk report which indicated that he was frisked but he still did not remember who did it. He did not hear PO Clarke refer to § 87(2)(b) as a "crack head." § 87(2)(b)'s pedigree information was taken and he was placed inside of the prisoner van. Lt. Thomas did not have any physical interaction with § 87(2)(b) or § 87(2)(b). While he was at the incident location, he did not observe § 87(2)(b) or § 87(2)(b) on the ground. He did not nor did he hear any officer that was present tell § 87(2)(b) or § 87(2)(b) to "shut the fuck up" as well as "don't fucking move." He did not use the word "fuck" and did not hear any other officer use the word "fuck" when they spoke to § 87(2)(b) or § 87(2)(b). Lt. Thomas did not observe any officers search § 87(2)(b)'s vehicle but stated that a

marijuana cigarette was recovered from the floor of § 87(2)(b)'s vehicle. No ones' shoes were off at the incident location.

Lt. Thomas believed that once § 87(2)(b) was inside of the prisoner van, he left the location at the same time the prisoner van did. He continued to conduct buy and bust operations and returned to the station house at approximately 5:30PM. Lt. Thomas saw § 87(2)(b) back at the stationhouse. He did not observe any injuries or blood on § 87(2)(b). He stated that § 87(2)(b) did not complain of any injuries and did not request any medical assistance or to go to the hospital. § 87(2)(b) refused to be fingerprinted and to sign his property voucher. When officers, he did not recall who, but assumed at least one of them was Det. Zuccaro since he was assigned to the prisoner van, attempted to place § 87(2)(b) inside of the prisoner van, he went limp and threw himself on the ground several times and refused to enter the van. Lt. Thomas called for an ambulance which responded to the stationhouse and § 87(2)(b) was transported to the hospital. He did not know which officers escorted § 87(2)(b) to the hospital. Lt. Thomas stated that the doctor said that § 87(2)(b) faked his injuries. Lt. Thomas was not aware of any incident occurring while § 87(2)(b) was being transported to the stationhouse. He was told that § 87(2)(b)'s medical records indicated that he had an abrasion to his right leg and Lt. Thomas explained that the only way he that received injuries was because he threw himself to the ground.

Lt. Thomas did not have any prior history with § 87(2)(b) or § 87(2)(b).

#### **Detective Clifton Clarke**

Since this incident officer Clarke was promoted to a detective. At the time of this incident, his rank was police officer.

Det. Clarke is a black male, weighs 180 pounds, is 5'5" and has black hair and brown eyes (Encl.24C). PO Clarke was the arresting officer on the date of incident. He worked the hours of 10:33AM to 7:00PM. He worked with Lt. Thomas. He was assigned to unmarked vehicle #§ 87(2)(b). The vehicle was described as a gray jeep. Entries in his memo book regarding this incident are as follows: *1530 1 under at 1<sup>st</sup> Street and Astoria Houses.*

#### **Arrest Report**

The arrest report indicated that § 87(2)(b) was arrested on July 10, 2008 at the northwest corner of Astoria Blvd. and First Street in Queens. § 87(2)(a) 160.50

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Det. Clarke was interviewed on March 6, 2009 by Sgt. Christopher Daly from IAB's Group 41 in regards to the missing property (Encl.23). During that interview he was asked if he or any member of his field team hit § 87(2)(b) with a radio, used excessive force, abusive language, or denied him medical and he said "no." § 87(2)(g)

Det. Clarke was interviewed at the CCRB on August 27, 2009 (Encl.24A-B). He and Lt. Thomas stopped at the viper room located at 1<sup>st</sup> Street and Astoria Blvd in Astoria Houses. Lt. Thomas went into the viper room and PO Clarke remained in the vehicle in the driver seat. Shortly thereafter, a Lexus pulled up with three individuals inside. The driver of the vehicle was identified through this investigation as § 87(2)(b). A male stepped into the vehicle. PO Clarke was shown a photograph of § 87(2)(b) and he recognized him as the individual that entered § 87(2)(b)'s vehicle. One of the individuals he was not sure which one, smoked what PO Clarke believed to be a marijuana cigarette however he was not certain. He explained that he thought it was a marijuana cigarette because there are several drug sales in the area, and his training in narcotics led him to believe that it was marijuana. In addition to that, the shape of it made him believe that it was a marijuana cigarette. It could have been a homegrown cigarette but since he was not sure, he radioed for Det. Pecorella and Det. Zuccaro to stop the vehicle. He did not recall if Lt. Thomas had put any information over the air in regards to stopping § 87(2)(b). Det. Pecorella and Det. Zuccaro stopped § 87(2)(b) and PO Clarke responded approximately a minute to two minutes later to

the location. § 87(2)(b) was already out of his vehicle at that time and Det. Pecorella was attempting to handcuff him. § 87(2)(b) stood outside of the vehicle with Det. Zuccaro.

§ 87(2)(b) was compliant. PO Clarke did not observe § 87(2)(b) being searched. PO Clarke opened the car door to § 87(2)(b)'s vehicle and noticed that there was a male and a child in the backseat. PO Clarke could not say for certain that he smelled an odor of marijuana coming from the car. At that time, he asked the third adult, identified as § 87(2)(b) to step out of the vehicle. PO Clarke frisked him for weapons. § 87(2)(b) yelled and created a scene. PO Clarke could not remember specifically what was said. § 87(2)(b) was also flailed his arms in order to prevent from being handcuffed. He did not observe § 87(2)(b) push Det. Pecorella. Det. Pecorella grabbed his hands in order to restrain him. PO Clarke searched § 87(2)(b). § 87(2)(b) complained that he wanted § 87(2)(b) to hold his money. PO Clarke counted \$560.00 in front of § 87(2)(b) and Lt. Thomas who had walked from the viper room to the location, and then gave it to § 87(2)(b) along with the keys to § 87(2)(b)'s car. § 87(2)(b) kept \$100 for himself. Det. Pecorella escorted § 87(2)(b) to the prisoner van. PO Clarke may have followed. He did not recall having any conversation with § 87(2)(b) in regards to that he should be mindful who he allowed in his car. He denied referring to § 87(2)(b) as a crack head stating that this incident was his first interaction with § 87(2)(b). PO Clarke did not recall if Lt. Thomas had any verbal interaction with either § 87(2)(b) or § 87(2)(b). PO Clarke did not witness Det. Pecorella or Det. Zuccaro using profanity when they spoke with him.

Detective Pecorella recovered marijuana behind the driver's seat. PO Clarke was not sure if he was present when § 87(2)(b)'s vehicle was searched but stated that he did not search the vehicle. PO Clarke did not observe § 87(2)(b) being dragged by any officer and thrown to the ground. He did not witness Det. Zuccaro or Det. Pecorella throw § 87(2)(b)'s sneakers at him. Furthermore, he did not observe § 87(2)(b) with his clothes or shoes off.

Once § 87(2)(b) was in the prisoner van they left the incident location, and PO Clarke and Lt. Thomas left and continued their buy and bust operations. PO Clarke was uncertain if when he arrived at the stationhouse § 87(2)(b) was already there. He went into the muster room. Det. Pecorella and Det. Zuccaro never had a conversation with PO Clarke whereby they told him that in route to the stationhouse, they had to stop the vehicle and use physical force against § 87(2)(b). PO Clarke was told that § 87(2)(b)'s medical records indicated that he suffered an abrasion to his right leg and he explained that he learned from IAB investigations that § 87(2)(b) went limp at the precinct and did not want to walk therefore the ambulance was called for him. No officer told PO Clarke that they observed injuries or saw blood on § 87(2)(b). PO Clarke did not have any prior knowledge of § 87(2)(b).

### **Medical Records**

Underneath ED Provider Documentation, it indicated that § 87(2)(b) was transported to § 87(2)(b) on § 87(2)(b). § 87(2)(b) was the backseat passenger in a police car as a prisoner, and handcuffed when the vehicle had a sudden stop with no collision. § 87(2)(b) fell and hit his head on the pane in the prisoner van. The transporting officers reported there was no loss of consciousness. § 87(2)(b) did not express any complaints until the last minute when he was brought to the Emergency Department.

§ 87(2)(b) complained of a mild headache and cervical pain. According to the ACR, § 87(2)(b) stated that he experienced pain to his neck and right leg. He complained that he was thrown from the back of the van to the front of the van when the subject officer slammed the brakes. He had an abrasion on his lower right leg which was bandaged. His chief complaint was that his neck hurts. § 87(2)(b) was treated with Ibuprofen.

§ 87(2)(b)'s civil attorney was successfully contacted on May 18, 2009 in regards to obtaining a copy of the 50H minutes which he was willing to provide. Follow up attempts were made to § 87(2)(b)'s attorney on June 8 and 12 of 2009 and November 23, 2009. Minutes of the 50H hearing were not received.

### **Police Documents** **Command Log**

The command log indicated that PO Clarke arrested § 87(2)(b) on July 10, 2008 at 1<sup>st</sup> Street and Astoria Blvd. for § 87(2)(a) 160.50. He was in good physical condition at the time of the arrest. At 7:20PM, EMS was called to the stationhouse and Det. Pecorella and Det. Zuccaro escorted him to the hospital.

#### **Arrest Photo**

§ 87(2)(b)'s arrest photo taken on July 10, 2008, did not show any injuries and he appeared to be in normal condition.

#### **Property Voucher**

One marijuana cigarette was vouchered on July 10, 2008.

#### **Disposition of IAB's Investigation**

Sgt. Christopher Daly from Group 41 conducted an investigation into the missing \$660.00 § 87(2)(b) alleged was not returned to him. The officers involved in this complaint were interviewed in regards to the missing property. The allegation was unsubstantiated.

#### **Disposition of Criminal Case**

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

#### **Disposition of Civil Suit**

On § 87(2)(b), § 87(2)(b) filed a Notice of Claim with New York City's Law Department against the NYPD. The claim is for personal injuries, unlawful detention, false arrest, false imprisonment, malicious prosecution, battery, assault, negligence, harassment, un-named tort, outrageous conduct, negligent hiring, training and retention of personnel, and violations of his civil rights, infliction of emotional distress, and intentional infliction of emotional distress by the employees and agents of the City and the NYPD. Items of damage and injuries claimed are permanent and personal injuries, medical and hospital expenses, and deprivation of § 87(2)(b)'s civil rights. The amount claimed is in excess of the jurisdictional limits of the lower courts in the State of New York (Encl.10A-B)

#### **Criminal Conviction History**

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

#### **Civilian CCRB History**

§ 87(2)(b) has made 12 previous complaints (Encl.4).

### **Subject Officers' CCRB Histories**

Det. Zuccaro has been the subject of three CCRB substantiated allegations in case number 200709264 for Abuse of Authority, vehicle search, frisk, and search of person. The board recommended charges for all of the allegations (Encl.2A-C).

Det. Pecorella has not been the subject of any CCRB substantiated allegations (Encl.3).

## **Conclusions and Recommendations**

### **Pleading of Allegations**

§ 87(2)(g)  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

### **Undisputed Facts**

It is undisputed that there were three passengers in § 87(2)(b)'s car when he was stopped by Det. Pecorella and Det. Zuccaro and that Det. Pecorella removed him from the vehicle. Lt. Thomas and PO Clarke were also at the scene and involved in the incident. It is also undisputed that § 87(2)(b) suffered an abrasion to his right leg.

### **Disputed Facts**

§ 87(2)(g)  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

### **Assessment of Evidence**

§ 87(2)(b) stated that Det. Zuccaro approached the passenger side of § 87(2)(b)'s vehicle and said "Get out of the fucking car." "Don't fucking move." "Let me see your fucking hands." Det. Zuccaro then grabbed him by the collar and dragged him out of the car. § 87(2)(b) also alleged that Det. Zuccaro searched his pants pockets, threw him to the ground, and when he asked Det. Zuccaro what he was doing, he replied "Shut the fuck up." Det. Zuccaro allegedly removed § 87(2)(b)'s sneakers and threw them at him, hitting his chest. § 87(2)(b) asked Det. Zuccaro why § 87(2)(b) was arrested and he alleged that Det. Zuccaro told him to "shut the fuck up" and mind his business and that he could do what the "fuck" he wants. Det. Zuccaro denied using profanity when he spoke to § 87(2)(b) and Det. Pecorella corroborated that statement. He further stated that the only interaction he remembered having with § 87(2)(b) was when he instructed him to exit the vehicle. He then went to the driver's side of the vehicle.

Det. Zuccaro did not recall searching § 87(2)(b) nor did any of the other officers that were present, which is consistent with the 250 he filed. § 87(2)(b) corroborated that Det. Zuccaro searched § 87(2)(b)

§ 87(2)(b)'s pants pockets. § 87(2)(g)  
[REDACTED]  
[REDACTED]  
[REDACTED]

§ 87(2)(b) did not allege that any profanity was used when § 87(2)(b) was removed from the vehicle or at any point, and did not corroborate that any physical force was used against § 87(2)(b) or that an officer threw his shoes at § 87(2)(b) § 87(2)(g)  
[REDACTED]  
[REDACTED]

Det. Pecorella and Det. Zuccaro stated that no physical force was used against § 87(2)(b) and that he was compliant. § 87(2)(g)  
[REDACTED]

§ 87(2)(g)

§ 87(2)(b) was handcuffed and in route to the 114<sup>th</sup> Precinct when he complained that he was not at the stationhouse after approximately two hours of driving around. He alleged that Det. Zuccaro repeatedly hit him on his right leg with his radio and called him a “stupid motherfucker.” Det. Pecorella then threw him into the interior panel of the van and then dragged him across the seat. Det. Zuccaro and Det. Pecorella both stated that they never had to stop the prisoner van while they were in route to the stationhouse to interact with § 87(2)(b) because of any complaints that he made. They never used any physical force against § 87(2)(b) except when Det. Pecorella grabbed § 87(2)(b)'s hands to handcuff him.

§ 87(2)(b) stated that he did not witness the alleged physical force but stated that § 87(2)(b) repeatedly complained that officers beat him up and of neck injury. Officers were also driving very fast and all of the prisoners kept falling out of their seats, § 87(2)(g). § 87(2)(b) did not sustain or complain of bruising, § 87(2)(g).

§ 87(2)(b) saw a cut to either § 87(2)(b)'s knee or arm and recalled seeing blood. When they arrived to the 114<sup>th</sup> Precinct, § 87(2)(b) continued to ask to go to the hospital because his leg and neck were hurting him. The medical records indicated that § 87(2)(b)'s chief complaint was neck injury because he was thrown from the back of the van to the front when the prisoner van stopped short. He did not state to medical personnel that an officer hit him repeatedly with a radio or dragged him across the seat causing him to hit his head, or that any force was used against him at all. While he said officers told him to say this, § 87(2)(b) had multiple opportunities to give statements to medical personnel, § 87(2)(g).

§ 87(2)(b) alleged that when he was placed in the prisoner van to be transported to Central Booking, two prisoners were in the van smoking cigarettes. Either Det. Pecorella or Det. Zuccaro said to the other prisoners, “See, we do this for you because you’re not being an asshole like § 87(2)(b). § 87(2)(b) is an asshole.” § 87(2)(b) stated that before he and § 87(2)(b) entered the precinct, one of the officers from the prisoner van asked him if they wanted to smoke and placed the cigarettes in their mouth and lit them. He corroborated § 87(2)(b)'s statement and said that Det. Pecorella said to § 87(2)(b) “This is what you get when “you’re not being an asshole, we work with you,” “This guy is being an asshole” referring to § 87(2)(b). Det. Pecorella denied that other prisoners were offered cigarettes and that he referred to § 87(2)(b) as an asshole. Det. Zuccaro corroborated that statement. § 87(2)(g).

#### Allegations Not Pleaded

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) alleged that PO Clarke called § 87(2)(b) a “crack head.” § 87(2)(b) did not make that allegation when he provided his in-person statement § 87(2)(g)

**Allegation A: Det. Bryan Zuccaro spoke rudely to § 87(2)(b)**

§ 87(2)(g)

**Allegation B: Det. Bryan Zuccaro searched § 87(2)(b)**

§ 87(2)(b) alleged that Det. Zuccaro searched his pants pockets. § 87(2)(g) Officers smelled marijuana coming from § 87(2)(b)'s vehicle, and later found a marijuana cigarette inside. In People v. Chestnut, 351 N.Y.S.2d 26 (3d Dept. 1974), an officer lawfully stopped a vehicle and smelled the odor of marijuana inside of the vehicle. Since the car was lawfully stopped the officer used his sense of perception to determine what was inside of the car. Officers can use their sense of perception to conduct a reasonable search of passengers in such a case, Kamins, New York Search & Seizure, p. 4-7 (2009 ed.) (Encl.1A-B). § 87(2)(g)

**Allegation C: Det. Bryan Zuccaro used physical force against § 87(2)(b)**

§ 87(2)(g)

**Allegation D: Det. Kevin Pecorella searched the car in which § 87(2)(b) was an occupant.**

**Allegation E: Det. Bryan Zuccaro searched the car in which § 87(2)(b) was an occupant.**

§ 87(2)(b) alleged that both officers searched the front and back seats of his car and the glove compartment. Both officers stated that they smelled the odor of marijuana when they approached the vehicle. According to People v. Dungan, N.Y.L.J. (2d Dept. 2008) (Encl.1C), if an officer smells a distinctive odor of drugs, he would have probable cause to search the entire vehicle. § 87(2)(g)

**Allegation F: Det. Bryan Zuccaro struck § 87(2)(b) with a radio.**

§ 87(2)(g)

**Allegation G: Det. Bryan Zuccaro spoke rudely to § 87(2)(b)**

§ 87(2)(g)

**Allegation H: Det. Kevin Pecorella used physical force against § 87(2)(b)**

§ 87(2)(b) alleged that Det. Pecorella threw him against the interior wall inside of the prisoner van and then dragged him across the seat causing him to sustain scratches to his left elbow. § 87(2)(g)

**Allegation I: Det. Kevin Pecorella spoke rudely to § 87(2)(b)**

§ 87(2)(b) alleged that Det. Pecorella referred to him as an “asshole” to another prisoner. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: